

TAB D

Michael Killian

Deposition

December 7, 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

EEOC,
Plaintiff,

and

SHOTSAY POSCIRI,
Plaintiff-Intervenor,

vs.

UNITED FREIGHT &
TRANSPORT, INC.,
Defendant.

Case No. A05-122 CV

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DEPOSITION OF MICHAEL KILLIAN,

Pages 1-212, inclusive

Commencing at 1:40 p.m.

Wednesday, December 7, 2005

Anchorage, Alaska



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1 A. I don't.
 2 **Q. Do you still have that map?**
 3 A. It may be in dispatch. I don't have it.
 4 **Q. You're stationed right now in Fairbanks?**
 5 A. I am back in Anchorage as of last week.
 6 **Q. What's your position now?**
 7 A. I am vice-president of Local 959 and I am going
 8 to be working in an administrative director position.
 9 **Q. It's a promotion?**
 10 A. Kind of a lateral move. I've been a
 11 vice-president for some time.
 12 **Q. You've been the vice-president for some time?**
 13 A. Yeah.
 14 **Q. Tell me how long have you been the**
 15 **vice-president?**
 16 A. A year.
 17 **Q. And before that you were a business agent?**
 18 A. Dispatcher.
 19 **Q. Were you ever a business agent?**
 20 A. Yes.
 21 **Q. When was that?**
 22 A. From 1989 to -- I want to say 2001, and then I
 23 worked as a dispatcher for three and a half years, and
 24 briefly I did do some engine work between dispatching and
 25 moving up to Fairbanks to manage a business up there. It

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1 was a very short period of time.
 2 **Q. When you say you went up to Fairbanks to manage**
 3 **a business, what do you mean by that?**
 4 A. I managed the Teamsters local business in the
 5 interior Fairbanks area and ran the office.
 6 **Q. Are you glad to be back to Anchorage?**
 7 A. No, I liked it up there. I was raised up in
 8 that area.
 9 **Q. In terms of understanding the hierarchy within**
 10 **the union, I'm assuming that the VP in the local**
 11 **administration that you're talking about is higher up**
 12 **than a business agent?**
 13 A. Yes.
 14 **Q. And a business agent, is that someone who would**
 15 **be above a dispatcher?**
 16 A. No.
 17 **Q. Are they on an even --**
 18 A. I would say a dispatcher is more of a managing
 19 type part of the business.
 20 **Q. I'm sorry?**
 21 A. It's more of a managing type part of the
 22 business.
 23 **Q. Which one?**
 24 A. The dispatcher. The business agent oversees
 25 contracts.

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1 **Q. Can you tell me what you mean by the dispatcher**
 2 **is more of a management?**
 3 A. Well, it's an open hire hall and you coordinate
 4 all of the hiring and the layoff activity with all
 5 employers in the state, rather than just being assigned
 6 to enact different agreements or something.
 7 You review the applicants or referrals and make
 8 decisions based on the job call requirements. There's
 9 really no representation aspect of it. It's a function.
 10 **Q. Tell me what you do when you review the**
 11 **applications as a dispatcher?**
 12 A. I read them and evaluate them.
 13 **Q. So just to kind of -- I just need to get an**
 14 **idea of how it works. I'm not within the Teamsters.**
 15 If a call comes in and you have folks that want
 16 to bid on it, am I correct in understanding that, you, as
 17 the dispatcher, would look over all of the folks that
 18 want to bid on the job in order to determine if they're
 19 qualified?
 20 A. Yes.
 21 **Q. And what kind of things would you look for?**
 22 A. Well, it depends on the job call. When the
 23 employer puts in the job call -- and they will in most
 24 cases set some minimum standards that they want in the
 25 individual that is going to be referred to them.

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1 **Q. Would the job call notify you of the criteria**
 2 **that's preferred versus the criteria that they have to**
 3 **have?**
 4 A. No. There will be a separation. They will say
 5 specifically what type of licenses they want, what sort
 6 of certifications that may be required, whether or not
 7 they could have moving violations in previous years, and
 8 so on, and so forth. And I will make sure that those
 9 requirements are met. Then there may be some preferences
 10 but not requirements in addition to that. An example
 11 would be having knowledge of the Port.
 12 **Q. And that's an example of a preference versus a**
 13 **requirement?**
 14 A. Yes.
 15 **Q. When you talked about dispatching, you made a**
 16 **comparison to being a business agent, where you said that**
 17 **there's more of a representation requirement to that, and**
 18 **you review contracts. Can you tell me the duties of a**
 19 **business agent?**
 20 A. Well, essentially, in that capacity you're what
 21 I would say called -- assigned to an agreement we call a
 22 policing. We get familiar with the agreement, read
 23 through it, study it. And we actively go to the
 24 workplace, coordinate labor relation issues with shop
 25 stewards and human relations manager, labor relations

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1 little bit. The part that I would be familiar with is
2 the hiring hall language because working as a dispatcher,
3 I track the language in the hall agreements.

4 MS. HEALY: And with regard to your objection
5 on this, Mr. Killian has worked with the union for
6 several years in multiple capacities and has familiarity
7 with the contracts that go on at the union. You can
8 speak to them generally, if not specifically from looking
9 at the document.

10 BY MS. HEALY:

11 Q. I'll ask you, if you can't answer a question or
12 it's outside of what you know, just let me know. I'm not
13 asking you to guess or speculate on anything.

14 So tell me what the hiring hall language is in
15 this contract. Can you point that out to me?

16 A. It's under Article 5 on Page 1. And you want
17 me to explain what I think that means?

18 Q. Sure.

19 MR. EVANS: Objection; lack of foundation.

20 BY MS. HEALY:

21 Q. You can go ahead and answer the question. You
22 can explain what it means -- what you think it means.

23 A. It means to me that the employer in the union
24 is a signatory to this agreement, and has agreed to --
25 that the employer will ask for, and we will make every

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1 hired based on sex, they wouldn't have access to the
2 three-member panel? Is that what I understood you to
3 say, because they aren't an employee yet?

4 A. I think the issue would, but I don't know if
5 the individual would. That's my interpretation.

6 Q. The issue would, but not the --

7 A. The issue of the infraction of sex -- not
8 hiring because of the sex.

9 Q. It would be a union issue versus an individual
10 employee?

11 A. It would be a contract issue.

12 Q. In your capacity as a dispatcher, you indicated
13 that you would look over applications and make a decision
14 as to whether or not they're qualified, right?

15 A. Yes.

16 Q. If -- tell me how the union process works after
17 you've determined who's qualified for the job?

18 A. Well, I do what we call a job call. And we
19 have job call times in the hall, and announce who the
20 employer is, what the job vacancy is, what the
21 requirements are over a speaker system. And depending on
22 whether it's construction or nonconstruction, or a scale,
23 I notify the membership in the hall what it is. And I
24 ask anybody that meets the minimum requirements that the
25 employer has set, and then I announce to come up and put

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1 effort to provide qualified workers. We will do it in a
2 nondiscriminatory way, based on union membership, and
3 also based on provisions within the laws of our
4 countries, as far as race, color, sex, so on and so
5 forth.

6 And then it goes on to say that the employer
7 retains the right to reject applicants.

8 Q. Would it be permissible for an employer to
9 reject an applicant based on their sex?

10 A. No.

11 Q. If an applicant was rejected based on their
12 sex, what recourse would they have?

13 MR. EVANS: Objection; vague and ambiguous.

14 THE WITNESS: Pardon me?

15 MR. EVANS: You can still answer.

16 BY MS. HEALY:

17 Q. From time to time he'll make objections. But
18 unless your attorney, who is Ms. Shaw, instructs you not
19 to answer a question, we just kind of move on.

20 A. Ask me again, please.

21 Q. If an applicant is rejected based on their sex,
22 what recourse would they have? What I mean is, under the
23 contract, what can happen within the union?

24 A. I would say the union would file a grievance.

25 Q. In this situation where an employee wasn't

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1 in a job call -- job bid.

2 And they typically -- in this case, will be
3 nonconstruction, but put their dues receipt on the
4 counter. And I would select the oldest date who meets
5 the requirements that the employer has asked for.

6 Q. And that person would get a referral slip?

7 A. Yes.

8 Q. In that situation do you ever dispatch more
9 employees than there are positions open?

10 A. Not at the same time. I will process them in
11 date order, and try to be sure that they are interviewed
12 and considered in order.

13 Q. Is this because seniority is an issue?

14 A. Yes, hire hall start dates. It's essentially
15 the seniority in the hire hall.

16 Q. Is that the problem with sending out more
17 employees than there are positions is that the more
18 senior folks have the first crack at the bat?

19 A. Should be.

20 Q. Is it permissible for an employer to call up
21 and ask for several people to be sent out so that they
22 can pick or choose which employees that want to hire?

23 A. No.

24 Q. Is that because it violates the seniority
25 agreement with the union members?

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8 (Pages 26 to 29)

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1 A. No.

2 Q. What you know of Ms. Posciri's experience,
3 would she be qualified for that position?

4 MR. EVANS: What position are we talking about?

5 MS. HEALY: Driver/hustler.

6 BY MS. HEALY:

7 Q. Do you have any doubts about her driving
8 ability at all?

9 A. No.

10 Q. When you were a dispatcher in '03 here in
11 Anchorage, were you having a problem with United Freight
12 and their pattern of requests for drivers?13 A. It was a task to keep them in line with the
14 hire hall, yes.

15 Q. Were you able to do that?

16 A. Yes.

17 Q. Did you ever send out more drivers than there
18 were positions?19 A. At the same time, no, but more drivers than
20 positions, yes.21 Q. Okay. When you say, "not at the same time,"
22 are you qualifying it because once you received a
23 rejection from the employer then you would send out a new
24 employee?

25 A. Yes.

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1 Q. I want to talk to you about Shotsay's dispatch
2 to United Freight. Do you remember when that was that
3 she was dispatched?

4 A. Approximately.

5 Q. Okay. And when was that?

6 A. September or October of '03.

7 Q. Do you recall the events leading up to her
8 dispatch?9 A. Well, the event would be the employer called me
10 and asked me for a driver. And I put the job call out.
11 And she was a successful bidder.12 Q. Successful bidder meaning that she had the
13 required experience, won out on seniority and then was
14 sent over?

15 A. Yes.

16 Q. Okay. Would it help you recall the events if I
17 showed you your notes?

18 A. Yes.

19 Q. You actually have them in front of you.
20 They're marked as Exhibit 5, so it's underneath this
21 contract. These are your notes, correct?

22 A. It appears that they are, yes.

23 Q. Do you remember typing these up?

24 A. Yes, I do.

25 Q. Did you give this to Ken Coleman and Mike Jones

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1 sometime around September of 2003?

2 A. Well, I typed them then. It had to be shortly
3 after the date that's on the document.4 Q. I want to just kind of get an idea of the way
5 the events happened regarding Shotsay's dispatch to
6 United Freight. And if you recall that's fine, otherwise
7 you can refer to your notes which you have in front of
8 you.9 My understanding from reading over your notes
10 is that on September 18, '03, United Freight called and
11 asked for the union to fill two driver positions. Is
12 that how you remember?

13 A. Yes.

14 Q. And in your notes on September 18, '03, at
15 3:00 p.m., you indicate that Dana Adams, who I understand
16 is a dispatcher for United Freight called you; is that
17 right?

18 A. This case, yes.

19 Q. And he asked you to send five people over; is
20 that right?

21 A. Yes.

22 Q. And what was your response to him?

23 A. I told him that I would not do that. I asked
24 him if he had two openings I would send two drivers and
25 so on.

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1 Q. Do you recall how many people you sent over for
2 this call?

3 A. Total, no.

4 Q. Would it help to see the dispatch records?

5 A. Yeah.

6 Q. Those are actually in front of you as well.
7 I'll tell you what number they are.

8 MR. EVANS: It's 3.

9 BY MS. HEALY:

10 Q. Would this have been the dispatch from that
11 call from Dana Adams?

12 A. Yes.

13 Q. And if I look over this dispatch record, am I
14 correct in reading it, that on 9-18 you sent two drivers
15 over there?

16 A. Yes.

17 Q. And I can tell this because there's a -- at the
18 bottom of the sheet there's a column called dispatch
19 date. And that's when you send someone out?

20 A. Yes.

21 Q. So all these names listed are folks that bid,
22 but not people that were sent out?

23 A. Correct.

24 Q. Do you recall, from looking over these dispatch
25 notes, why those two people weren't hired at United

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10 (Pages 34 to 37)

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<p>1 Freight?</p> <p>2 A. I was notified that -- I was notified that one</p> <p>3 individual did not have the hazardous endorsement, and</p> <p>4 another one failed the driving test.</p> <p>5 Q. Now, looking over your notes, can you tell me</p> <p>6 when it is that you found out that the person didn't have</p> <p>7 the HAZMAT endorsement.</p> <p>8 A. I would say either late in that day or the</p> <p>9 following morning just prior to the call.</p> <p>10 Q. Referring to your notes, the second paragraph</p> <p>11 which starts on line 19-03.</p> <p>12 A. Okay, yes.</p> <p>13 Q. So it was before the 10 a.m. call on 9-19-03?</p> <p>14 A. Yes.</p> <p>15 Q. And is it safe to assume that since one person</p> <p>16 was rejected, you were notified that the HAZMAT</p> <p>17 endorsement wasn't there, that you then dispatched Gary</p> <p>18 Dixon at the 10 o'clock dispatch call?</p> <p>19 A. Yes.</p> <p>20 Q. Right after you dispatched Gary Dixon you then</p> <p>21 called over to United Freight to let them know that you</p> <p>22 were dispatching Gary Dixon; is that right?</p> <p>23 MR. EVANS: Objection; leading.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MS. HEALY:</p>	<p>1 should be given first opportunity.</p> <p>2 Q. Now, looking over your notes and also the</p> <p>3 dispatch record, can you tell me what happened next?</p> <p>4 You left off at the -- right after the 10</p> <p>5 o'clock for Gary Dixon, then you called Dana, and then</p> <p>6 what happened?</p> <p>7 A. Well, essentially, I just followed the hire</p> <p>8 hall rules and did another job call because they needed</p> <p>9 another driver.</p> <p>10 Q. And who was sent out on that next job call?</p> <p>11 A. Shotsay.</p> <p>12 Q. And that was at the 3 o'clock job call?</p> <p>13 A. Yes.</p> <p>14 Q. And after Shotsay was dispatched, you again</p> <p>15 called over to United Freight to let them know that</p> <p>16 Shotsay was coming over for the position?</p> <p>17 MR. EVANS: Leading.</p> <p>18 THE WITNESS: I would say that I did. I don't</p> <p>19 see it in my notes. That's generally how I do business.</p> <p>20 BY MS. HEALY:</p> <p>21 Q. On Monday, 9-22, you placed a call to United</p> <p>22 Freight?</p> <p>23 MR. EVANS: Counsel, you're basically</p> <p>24 testifying for the witness and asking him to agree to it.</p> <p>25 Can we phrase the questions in a way that aren't giving</p>
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<p>1 Q. And do you remember at that time, what your</p> <p>2 conversation with Dana Adams was about?</p> <p>3 A. Well, it appears from the notes that the second</p> <p>4 driver had not met one of their standards and that they</p> <p>5 were going to need another referral.</p> <p>6 Q. Did you let them know at that time that you</p> <p>7 would send a referral out at the 3 o'clock call?</p> <p>8 A. Yes.</p> <p>9 Q. And he again requested you to send more drivers</p> <p>10 than were necessary?</p> <p>11 MR. EVANS: Objection; leading.</p> <p>12 BY MS. HEALY:</p> <p>13 Q. Is that right?</p> <p>14 A. Yes.</p> <p>15 Q. At that time you attempted to talk to Frank</p> <p>16 Monfrey, the owner of United Freight?</p> <p>17 MR. EVANS: Same objection.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MS. HEALY:</p> <p>20 Q. And what did you want to talk with Frank about?</p> <p>21 A. Dana's persistence. He wanted more drivers</p> <p>22 than they had slots.</p> <p>23 Q. And why is this a problem?</p> <p>24 A. Hire hall seniority, and if somebody meets the</p> <p>25 minimum requirements the employer sends, I believe they</p>	<p>1 him the answers?</p> <p>2 MS. HEALY: I'm just reading off of his notes,</p> <p>3 which are notes in this case. I'm -- you know, I'm</p> <p>4 trying to be more open about the questions, but the facts</p> <p>5 are right in front of him.</p> <p>6 BY MS. HEALY:</p> <p>7 Q. Do you recall whether or not you called and</p> <p>8 talked to Frank Monfrey at United Freight on</p> <p>9 September 22nd of '03?</p> <p>10 A. Yes, I did.</p> <p>11 Q. And you actually spoke with him at this time?</p> <p>12 A. Yes.</p> <p>13 Q. And what was your conversation with Frank?</p> <p>14 A. I explained the hire hall procedures and what</p> <p>15 my concerns were with regard to this job call.</p> <p>16 Q. Do you remember if you initiated the call to</p> <p>17 United Freight?</p> <p>18 A. I called, yes.</p> <p>19 Q. And that was in the morning?</p> <p>20 A. It appears so.</p> <p>21 Q. During that conversation, did Mr. Monfrey ask</p> <p>22 you for additional referrals?</p> <p>23 A. Yes.</p> <p>24 Q. And why did he need additional referrals?</p> <p>25 A. It seems to me they had an opening or two and</p>

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1 then there was an issue going on with a current driver
2 they had on staff and he felt that he may need additional
3 drivers going forward.

4 **Q. At that time, did he assure you that they were**
5 **hiring three employees or three positions?**

6 A. I believe so, yes.

7 **Q. After speaking with Mr. Monfrey, then what**
8 **happened?**

9 A. I believe I just did a job call.

10 **Q. Would that have been the 10 a.m. job call?**

11 A. Yes.

12 **Q. Who was dispatched at that 10 a.m. job call?**

13 A. Daniel Tullis.

14 **Q. After Mr. Tullis was referred, what happened?**

15 A. Well -- I'm sorry. Ask that again.

16 **Q. What did you do after you dispatched**
17 **Mr. Tullis?**

18 A. Called over and let him know that he was coming
19 over.

20 **Q. Did you inquire into the status of the other**
21 **referrals?**

22 A. Yes, I did.

23 **Q. Do you recall what you were told?**

24 A. That they were hiring Dixon and the process for
25 Shotsay had not been completed.

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1 **Q. Was that because she was out on her driving**
2 **test when you called?**

3 A. I couldn't say. She was dispatched on Friday
4 and this was Monday morning.

5 **Q. But you were told just that she was in the**
6 **process. Is that a "yes"?**

7 A. Yes.

8 **Q. Do you recall what happened next?**

9 A. According to my notes, I was informed -- I
10 called Frank and I was informed that Dixon was going to
11 be hired, but Shotsay did not meet -- here I wrote she
12 did not have enough experience. They were considering
13 Tullis, but would make a final decision that day.

14 **Q. Did you believe that Shotsay didn't have enough**
15 **experience?**

16 A. No.

17 **Q. At this point, did you believe that United**
18 **Freight had three open positions?**

19 A. Yes.

20 **Q. Were they requesting an additional dispatch to**
21 **replace Shotsay?**

22 A. Well, I mean my notes are jogging my memory,
23 but I would say they had intention of hiring more
24 drivers, yes.

25 **Q. And you say that the notes jog your memory.**

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1 **What in the notes?**

2 A. First paragraph, second page, after I explained
3 that Frank hadn't made a final decision on Tullis he
4 asked me once again to send more drivers to select from.
5 And he explained to me what his concerns were from a
6 management point of view. And I, again, reiterated my
7 position. I did not agree to send another driver. And
8 instead I contacted the union representatives.

9 **Q. Why didn't you agree to send another driver?**

10 A. I felt that they had adequate referrals.

11 **Q. And what do you mean by adequate referrals?**

12 A. They met the requirements that the employer set
13 in the job call.

14 **Q. Shotsay did?**

15 A. Yes.

16 **Q. And you felt that they should have hired her?**

17 A. I felt that they should have considered it a
18 little more seriously.

19 **Q. And you don't think she was considered?**

20 A. I think she was considered. I said more
21 seriously.

22 **Q. And why wasn't she considered seriously?**

23 A. I do not know.

24 **Q. Do you believe that the reason she wasn't**
25 **considered more seriously was based on her sex?**

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1 A. I think that's possible.

2 **Q. At that time, did you know that Shotsay wasn't**
3 **even finished with her driving test by the time that**
4 **United Freight asked for more drivers?**

5 A. I did not know.

6 **Q. But the reason that he told you, over the**
7 **phone, that Shotsay didn't have enough experience, that's**
8 **something that doesn't ring true to you?**

9 A. It definitely does not ring true to me.

10 **Q. What would make you think that the employer is**
11 **reluctant to hire female drivers?**

12 A. Well, they do not have any female drivers on
13 their seniority list, and perhaps comments.

14 **Q. And I'm sorry?**

15 A. Comments.

16 **Q. What comments?**

17 A. Not necessarily from the employer but from
18 other drivers.

19 **Q. Other drivers at United Freight?**

20 A. (Nods affirmatively.)

21 **Q. Which drivers?**

22 MR. EVANS: Sir, you have to say yes for the
23 record because you nodded.

24 BY MR. HEALY:

25 **Q. I'm sorry. I didn't notice that you didn't**

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1 Tullis without going through an open call?
 2 A. No, I don't.
 3 Q. Had they done that, what would you have said?
 4 A. No.
 5 Q. Would you have said the call was already open?
 6 A. If it followed those guidelines that I had
 7 written the two days to two weeks, I would imagine that I
 8 would have honored the call.
 9 Q. If it was after two weeks, would you consider
 10 the call closed?
 11 A. I probably would have thought about it pretty
 12 hard, and I probably would have told him to reissue the
 13 call.
 14 Q. So if Dan Tullis was hired by United Freight,
 15 more than two weeks after you wrote that message or
 16 received that information, would that be a violation of
 17 the contract?
 18 A. It would be a violation of the hire hall
 19 policy.
 20 Q. Do you know if that occurred or not?
 21 A. Well, he got hired somehow. It was sometime
 22 later. It wasn't on the job call.
 23 Q. Do you know if a grievance was filed with
 24 respect to United Freight hiring Dan Tullis outside of an
 25 open call?

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1 A. I do not.
 2 Q. As the dispatcher, would you normally be
 3 involved in such a grievance?
 4 A. I don't know. I can't say that I would have
 5 been involved in a grievance. I probably would have
 6 addressed the issue in a very serious manner.
 7 Q. If you look at that same document under
 8 Paragraph 7, and the second paragraph under Paragraph 7,
 9 the very end there you say, "Your comment to Frank
 10 Monfrey of having a pattern of having abnormal hiring
 11 practices is an understatement." Do you see that?
 12 A. Yeah.
 13 Q. What are you referring to there?
 14 A. Probably goes back to the two years previous
 15 that I was commenting on earlier where we were talking
 16 about the Port experience and the Anchorage -- the
 17 knowledge of the Anchorage area, the company putting in
 18 job calls and asking for way too many drivers in my
 19 opinion. It probably goes back to that.
 20 Q. And tell me a little bit about that -- them
 21 putting in job calls and asking for way too many drivers.
 22 What -- how did that work? Was there a limit to how many
 23 drivers they could ask for?
 24 A. Well, if they have one opening, I would send
 25 one driver at a time.

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1 Q. And am I correct in understanding that United
 2 Freight did it some different way?
 3 A. They tried to.
 4 Q. Did they ever do it a different way?
 5 A. Not that I'm aware of. I can only speak for my
 6 time in dispatch.
 7 Q. So there were occasions when United Freight
 8 tried to get more drivers than there were positions open;
 9 is that correct?
 10 A. I experienced that, yes.
 11 Q. And what was the reason they were trying to do
 12 that? If you know.
 13 A. I have to make an assumption.
 14 Q. What was your understanding?
 15 A. I don't even have an understanding. I have an
 16 assumption, from my point of view as a dispatcher, that
 17 they were trying to get to a driver they wanted.
 18 Q. Would they know who the drivers were that were
 19 in the hall that were waiting to be dispatched?
 20 A. I would say, no.
 21 Q. Did you ever hear from anybody at United
 22 Freight that they were doing that so that they could
 23 choose the best driver among several for their purposes?
 24 A. In an indirect way. They would ask me if
 25 certain individuals were in the hall.

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1 Q. Did anybody from United Freight ever tell you
 2 that they did want more drivers than there were positions
 3 so they could evaluate and compare them?
 4 A. That's the reason they wanted more, but I would
 5 only give them one at a time. I wouldn't give them a
 6 pool of drivers to pick one out of it. And usually it's
 7 the bottom guy on the list.
 8 Q. What do you mean it's the bottom guy on the
 9 list?
 10 A. Well, even though I put them through the
 11 drilling process of interviewing in order, they get --
 12 they get to a point where I believe they make their
 13 selection having knowledge in advance of who they wanted.
 14 Q. Okay. So they get to the same point in that
 15 process?
 16 A. They try to.
 17 Q. And don't they?
 18 A. No, not every time.
 19 Q. How do you know they don't?
 20 A. I monitor it and I send people one at a time.
 21 An example is Gary Dixon. They didn't even know Gary
 22 Dixon was in the hire hall. They ended up hiring him.
 23 Q. On the occasions where you said they don't get
 24 what they wanted sometimes, can you give me an example of
 25 that?

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36 (Pages 138 to 141)

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1 male drivers; is that correct?
 2 A. Definitely.
 3 Q. Are there any truck driving establishments or
 4 wherever that don't have that same ratio?
 5 A. You mean did I evaluate other companies to see
 6 how many female drivers were there compared to male
 7 drivers? No.
 8 Q. Do you know how many female drivers were
 9 dispatched by the Teamsters during the period you looked
 10 at that weren't hired by United Freight?
 11 A. No, I don't. I don't think there was any.
 12 Q. Do you know if the hiring percentage for woman
 13 at United Freight is higher or lower than that of men?
 14 A. The hiring percentage is definitely lower --
 15 extremely.
 16 Q. Why do you say that?
 17 A. Well, as I recall, the rotation of people on
 18 the seniority list, people who have been hired and worked
 19 a number of months or a year or two years was a lot
 20 higher than the three women that maybe worked three
 21 months or less.
 22 Q. Were you able to determine if United Freight
 23 has a fairly high turnover rate?
 24 A. They do not. That's a good solid company that
 25 employs people, and people look forward to going down

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1 there.
 2 Q. And the investigation you conducted revealed
 3 that there weren't a lot of employees being let go after
 4 a short period of time?
 5 A. People have stayed -- you know it varied.
 6 Typically if somebody could get on there, they worked for
 7 a year or two minimum and would go back to construction
 8 or whatever.
 9 Q. You didn't find that United Freight had a
 10 number of discharges within the first 120 days?
 11 A. Discharges?
 12 Q. People that stopped working for them within
 13 120 days?
 14 A. That's a voluntary resignation. A discharge
 15 is -- I'm not aware of anybody being discharged.
 16 Q. Within the 120 days?
 17 A. Yes.
 18 Q. And in your investigation you looked at records
 19 that would have revealed that, if that were the case,
 20 correct?
 21 A. As far as discharge, I don't know that it would
 22 have.
 23 Q. Okay. You seem to have gotten information
 24 regarding how long certain female truck drivers stayed
 25 employed at United Freight; is that correct?

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1 A. Uh-huh.
 2 Q. And did you also look at how long male truck
 3 drivers stayed employed at United Freight?
 4 A. Yes.
 5 Q. And did you find that there were -- how many
 6 male drivers didn't make it one year at United Freight?
 7 A. I don't recall.
 8 Q. Do you recall if there were any?
 9 A. Yeah, I'm sure.
 10 Q. Were there more than three?
 11 A. I don't know.
 12 Q. Do you recall how many male drivers were
 13 dispatched to United Freight during the period you
 14 reviewed?
 15 A. I'm trying to remember how far back I went
 16 because I did it in blocks. I did it in time frames
 17 because I kept looking back and back and back. I don't
 18 recall.
 19 Q. Did you come across any information with
 20 respect to how many female drivers United Freight did not
 21 hire?
 22 A. No.
 23 Q. Would that have been something of interest to
 24 you?
 25 A. I was looking at the dispatch history. I

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1 wasn't looking at the job call sheets.
 2 Q. Okay. And the dispatch history did you -- when
 3 you were looking at dispatch history, did you find out
 4 how many female drivers were dispatched to United
 5 Freight?
 6 A. Yes.
 7 Q. And do you recall how many that was?
 8 A. Three.
 9 Q. Were dispatched?
 10 A. Yes.
 11 Q. And do you recall how many were hired?
 12 A. That's how many I recall. I don't know how
 13 many were -- I mean, I can't say. If we had that
 14 information here today, how many there were -- you asked
 15 me how many I recall, I recall three.
 16 Q. Three that were dispatched?
 17 A. Yeah.
 18 Q. And do you recall how many of those were hired?
 19 A. Three.
 20 Q. Okay. So under your investigation, United
 21 Freight hired all the women that were dispatched to it?
 22 A. Yeah.
 23 Q. And yet you thought that they had a -- that
 24 they were discriminating and not hiring female drivers?
 25 A. Not employing them for very long.

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39 (Pages 150 to 153)

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<p>1 A. No.</p> <p>2 Q. Do you know who her husband is?</p> <p>3 A. Yes.</p> <p>4 Q. And he has a union position?</p> <p>5 A. I would say that my acquaintance with him was</p> <p>6 very similar to Shotsay's.</p> <p>7 Q. The last sentence on that e-mail says, "This is</p> <p>8 an open call and will be up at 3 o'clock today through</p> <p>9 Monday calls." Can you tell me what that meant?</p> <p>10 A. The open job call that I announce, I would do</p> <p>11 that at 3 o'clock, and then at 10 o'clock the following</p> <p>12 morning, and 3 o'clock the following day.</p> <p>13 Q. And this was sent out on Thursday. And it's</p> <p>14 talking about through Monday calls. Does that carry over</p> <p>15 into Monday as well?</p> <p>16 A. I would say so, yeah.</p> <p>17 Q. Can you now turn to what I think you said was</p> <p>18 Exhibit 10. It's the dispatch record for 10-18 -- 10-16.</p> <p>19 Excuse me. And have you seen that document before, prior</p> <p>20 to today's deposition?</p> <p>21 A. Yeah, I'm the one that wrote it.</p> <p>22 Q. In the section that says number of people to be</p> <p>23 dispatched, it has a question mark.</p> <p>24 A. I don't know that that's a question mark.</p> <p>25 Q. You don't know that it's a question mark?</p>	<p>1 hiring three drivers. None above at this time." What</p> <p>2 does that mean?</p> <p>3 A. It means that they did not select any of</p> <p>4 those -- any of those people based upon their</p> <p>5 applications, drive tests, and so on and so forth.</p> <p>6 Q. And then below that there are four names of</p> <p>7 people that I understand were dispatched to United</p> <p>8 Freight?</p> <p>9 A. It looks like it, yes.</p> <p>10 Q. And can you tell from this document what date</p> <p>11 they were dispatched?</p> <p>12 A. The 20th.</p> <p>13 Q. And typically you have two calls. There's a</p> <p>14 9 a.m. and 3 p.m.?</p> <p>15 A. Yes.</p> <p>16 Q. And can you tell from the document, which call</p> <p>17 these people were dispatched under?</p> <p>18 A. I can only tell the date that I actually got</p> <p>19 the dispatch.</p> <p>20 Q. Okay. Below their names there's a reference</p> <p>21 that says, "11:30 a.m. closed call per Dana." Do you see</p> <p>22 that?</p> <p>23 A. Yes.</p> <p>24 Q. And do you recall what that referred to?</p> <p>25 A. Evidently closing the call. Send no other</p>
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<p>1 A. No.</p> <p>2 Q. Okay. What do you think it is?</p> <p>3 A. I think it's a number three.</p> <p>4 Q. Have you ever put a question mark in any of</p> <p>5 those spaces?</p> <p>6 A. I doubt it.</p> <p>7 Q. The -- and this says there were three open</p> <p>8 positions, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And if I understand this document correctly,</p> <p>11 down below it looks like Brad Weese was sent on the 16th,</p> <p>12 and Perry Lemons on the 17th, and Donald Luff on the</p> <p>13 17th; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And that would be consistent with your practice</p> <p>16 of not sending more than there are positions open?</p> <p>17 A. I would say that I was unable to fill the three</p> <p>18 positions on the 16th, so the call carried over to the</p> <p>19 17th.</p> <p>20 Q. It looks like there's a note down here that</p> <p>21 says, "Per Dana close call until Monday a.m., while they</p> <p>22 consider the above three."</p> <p>23 A. Yeah.</p> <p>24 Q. And then there's a note below that that says,</p> <p>25 "10-20 reopen call per -- I think that's Dana -- "will be</p>	<p>1 individuals over.</p> <p>2 Q. So would it be a fair assumption that these</p> <p>3 people were all sent before 11-30?</p> <p>4 A. Yeah.</p> <p>5 Q. And that would be from the morning call then?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Can you tell me why four were sent if there</p> <p>8 were only three positions open?</p> <p>9 A. One may have popped it out shortly after the</p> <p>10 dispatch. One may not have been -- they may have gone</p> <p>11 over there or found out that they didn't have the correct</p> <p>12 background or whatever. It could have been a number of</p> <p>13 things.</p> <p>14 Q. And how -- if they were dispatched from the</p> <p>15 9 a.m. call, how would that work? Would you send the</p> <p>16 first three and then wait awhile, and if you got word</p> <p>17 back send another one before?</p> <p>18 A. No, in this case I probably would have sent --</p> <p>19 because there was three openings, and there was nobody</p> <p>20 hired above, I probably sent three over.</p> <p>21 Q. Okay. And would there be any particular order</p> <p>22 in which these guys were sent in?</p> <p>23 A. The first set of numbers here is their start</p> <p>24 dates. So I would have sent them over in start date</p> <p>25 order. See here, there's one of those situations where</p>

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1 two of the start dates were the same. But in this case I
2 would say that somebody opted out.

3 **Q. Why do you say that?**

4 A. Because I don't send any more than there are
5 openings.

6 **Q. Would you --**

7 A. And I do deal with that frequently at the
8 window -- somebody will get a job and then change their
9 mind.

10 **Q. In such circumstances, do you note it on the**
11 **dispatch record normally?**

12 A. If the dispatch is handled properly, it should
13 be.

14 **Q. And when you say "handled properly" by who?**

15 A. The dispatcher.

16 **Q. Being you?**

17 A. Yeah.

18 **Q. Okay. And I think you answered the question,**
19 **but do you know if any of these four individuals that**
20 **were dispatched on October 20th were hired?**

21 A. It seems to me Arnold Aaron was.

22 **Q. And on that list, would he be the most senior?**

23 A. No.

24 **Q. Would he be the least senior?**

25 A. Yes.

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1 **Q. And do you recall his hiring being an issue**
2 **with respect to the hiring hall procedures?**

3 A. No.

4 **Q. Do you have any knowledge as to why somebody**
5 **less senior may have been hired over someone more senior**
6 **on the call?**

7 A. I don't know.

8 **Q. Do you know if United Freight actually hired**
9 **three people from this call?**

10 A. I believe that they may have re-evaluated some
11 of the previous people that were dispatched because some
12 of these down here either they weren't willing to select
13 them, or like I said, I think Charles Christoferson may
14 have handed his dispatch back in.

15 But I believe they re-evaluated the situation.
16 And they hired Perry Lemons and Donald Luff, or they may
17 have told Donald Luff he was going to get hired, but he
18 ultimately did not.

19 **Q. When employers give you a number of open**
20 **positions, do they always hire that many people?**

21 A. No.

22 **Q. How frequently do they not?**

23 A. Not very.

24 **Q. But it happens?**

25 A. Uh-huh.

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1 **Q. Are --**

2 MS. HEALY: Can we take a break?

3 MR. EVANS: Sure.

4 (Break was had.)

5 BY MR. EVANS:

6 **Q. Mr. Killian, we were looking at Exhibit 10 just**
7 **before the break. And in the list of people that were**
8 **dispatched back on October 16th for United Freight,**
9 **Ms. Posciri was not included within that group; was that**
10 **correct?**

11 A. There's only one on the 16th.

12 **Q. For the whole sheet for this call?**

13 A. Yes, that's correct.

14 **Q. Do you know why she wouldn't have been included**
15 **in this group?**

16 A. I believe -- no, I don't. I don't.

17 **Q. Would Ms. Posciri have been eligible to be**
18 **included in this group?**

19 A. Yeah, I think so. I believe so.

20 **Q. If Ms. Posciri had put in her dues sheet?**

21 A. My memory is coming back. She may have been
22 working for AIC. I'm not exactly sure. You'd have to
23 ask her.

24 **Q. Are you aware of drivers being rejected from**
25 **hire by United Freight and subsequently being hired by**

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1 **them?**

2 A. I can't say that other -- you know, other than
3 maybe this time where they asked to relook at some
4 people.

5 **Q. Are you aware of anybody who was rejected from**
6 **a particular call and then in a subsequent open call was**
7 **redispatched and got the job?**

8 A. Nothing comes to mind.

9 **Q. Is it possible that that has occurred?**

10 A. I suppose it's possible.

11 MR. EVANS: We'll mark this as 16.

12 (Exhibit 16 marked.)

13 BY MR. EVANS:

14 **Q. Can you take a look at that document that's**
15 **marked Exhibit 16, Mr. Killian, and tell me if you are**
16 **familiar with this document?**

17 A. No.

18 **Q. Are you able, with the union, to print off a**
19 **history of dispatches for individual employees?**

20 A. Yes -- well, under the system I worked under
21 you were able to. I am not totally familiar with the new
22 system they're using over there right now.

23 **Q. And this document is nothing you're familiar**
24 **with, correct?**

25 A. No, this is not a Reflections document?

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1 be?

2 A. No.

3 Q. It says in the next paragraph, on 9-19, you
4 called back to check the status and were told they were
5 not hiring one of the referrals from the day before. And
6 at 10 o'clock you then dispatched Gary Dixon. Is that
7 how you recall the events?

8 A. Yes.

9 Q. And then it says just after you called Dana
10 Adams to let him know -- you called Dana Adams to let him
11 know another referral would be over. Was that referring
12 to Mr. Dixon?

13 A. Yes.

14 Q. Then it says, "Dana told me the second referral
15 from the day before had failed his driving test." Do you
16 recall that?

17 A. Uh-huh.

18 Q. And you told him that you would dispatch
19 another at 3:00 p.m. to report to him on Monday?

20 A. Uh-huh.

21 Q. At the time you told Mr. Adams that, did you
22 know who the person would be that you would dispatch at
23 3:00 p.m.?

24 A. No.

25 Q. And Mr. Adams would have no way of knowing

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1 either?

2 A. No.

3 Q. And then it says, "Dana reiterated the need for
4 me to send more than one per his boss." Do you see that?

5 A. Yes.

6 Q. And was Dana requesting that you send -- do you
7 know how many people Mr. Adams was requesting that you
8 send?

9 A. I don't recall.

10 Q. And at that time that Mr. Adams made his
11 request, did you know that Ms. Posciri was going to be
12 the one dispatched?

13 A. No.

14 Q. So Mr. Adams was making a request to send more
15 than one driver, even before United Freight could know
16 that Ms. Posciri was going to be dispatched?

17 A. Certainly.

18 Q. You indicated next that you wanted to talk to
19 Dana's boss, Frank Monfrey. And can you tell us what the
20 reason was you wanted to talk to his boss?

21 A. He indicated he was getting pressure from his
22 boss. So I figured why deal with this -- you know, a
23 continuing saga. So I would get ahold of the boss and
24 try to sort it out.

25 Q. And did you then contact Mr. Monfrey?

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1 A. Yes.

2 Q. Do you recall when that was?

3 A. Only by reading the notes here. It was -- you
4 know, it was right within that time frame.

5 Q. And during that conversation you told
6 Mr. Monfrey that you would not send more drivers than
7 there were open positions for?

8 A. Yes.

9 Q. And in that conversation did Mr. Monfrey ask
10 you how many positions were listed as being open?

11 A. Yes.

12 Q. And what did you tell him?

13 A. Two.

14 Q. And how did Mr. Monfrey respond?

15 A. He wanted me to increase it by one.

16 Q. During that conversation you had with
17 Mr. Monfrey, was any reference made to Ms. Posciri?

18 A. No.

19 Q. Did you dispatch Mr. Tullis after that
20 conversation with Mr. Monfrey?

21 A. I would have to look at the dates on that
22 dispatch list.

23 Q. Okay. The bottom paragraph, on September 23rd
24 it says, "I Called Frank." That's Frank Monfrey, I would
25 imagine, that's referring to; is that correct?

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1 A. Right.

2 Q. To follow-up on the status of hiring. It says,
3 "I was told they were going to hire Dixon, they were not
4 going to hire Breaux because she did not have enough
5 experience and they were considering Tullis, but would
6 not make a final decision." Do you recall that
7 occurring?

8 A. Yeah.

9 Q. Is it unusual at all for a company to state
10 that they may hire a driver in a short period of time,
11 but they're not certain yet?

12 A. No.

13 Q. Was it clear from your conversation with
14 Mr. Monfrey on September 23rd, that United Freight was
15 not going to hire Ms. Posciri?

16 A. Yes.

17 Q. On the second page of this document, on the
18 second paragraph, it indicates that in a meeting with
19 Mike and Ken and talking to John, it was decided that
20 someone needed to talk to Frank to see what was going on.
21 Do you recall that?

22 A. Yes.

23 Q. Do you recall what your concern was about what
24 was going on?

25 A. Asking for so many drivers and not getting much

Exhibit

D

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